| 1 | EDMUND G. Brown Jr. |
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| 2 | Attorney General of California MARC D. GREENBAUM |
| 3 | Supervising Deputy Attorney General BRIAN G. WALSH |
| 4 | Deputy Attorney General State Bar No. 207621 |
| 5 | 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 |
| 6 | Telephone: (213) 897-2535 Facsimile: (213) 897-2804 |
| 7 | Attorneys for Complainant |
| 8 | BEFORE THE |
| 9 | BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS |
| .10 | STATE OF CONSUMER AFFAIRS STATE OF CALIFORNIA |
| 11 | In the Matter of the Accusation Against: Case No. 2010 - 546 |
| 12 | TAMARA LYNN GOSTYNSKI |
| 13 | aka TAMARA LYNN PERRY aka TAMARA LYNN BROWN A C C U S A T I O N |
| | 11184 Datura Lane Apple Valley, CA 92308 |
| 14 | Registered Nurse License No. RN 389769 |
| 15 | Respondent. |
| 16 | |
| 17 | |
| 18 | Complainant alleges: |
| 19 | PARTIES |
| 20 | 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her |
| 21 | official capacity as the Interim Executive Officer of the Board of Registered Nursing, Departmen |
| 22 | of Consumer Affairs. |
| 23 | 2. On or about August 31, 1985, the Board of Registered Nursing (Board) issued |
| 24 | Registered Nurse License Number RN 389769 to Tamara Lynn Gostynski aka Tamara Lynn |
| 25 | Perry aka Tamara Lynn Brown (Respondent). The Registered Nurse License was in full force |
| 26 | and effect at all times relevant to the charges brought herein, and will expire on February 28, |
| 27 | 2011, unless renewed. |
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10.11.

JURISDICTION -

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

- 4. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
 - 5. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct
- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."
 - 6. Section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- "(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
- "(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in ///

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subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof"

7. Section 2764 states:

"The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licentiate shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license."

REGULATORY PROVISIONS

. 8. California Code of Regulations, title 16, section 1444, states, in pertinent part:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare."

COST RECOVERY

Section 125.3 provides, in pertinent part, that the Board may request that the administrative law judge direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially-Related Crime)

Respondent is subject to discipline under section 2761, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, as a result of Respondent's conviction of a crime that is substantially related to the qualifications, functions, and duties of a licensed registered nurse. On or about June 27, 2008, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving with a blood-alcohol content level greater than .08%] in the criminal proceeding entitled The People of the State of California v. Tamara Lynn Perry (Super. Ct. San Bernardino County, 2008, No. TCH800431). Respondent was sentenced to two days in jail and placed on probation

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| 1 | for three years, in addition to being ordered to complete a first-offender's drug and alcohol |
| 2 | education program. The underlying circumstances occurred on or about April 23, 2008, when |
| 3 | Respondent was arrested by officers of the San Bernardino County Sheriff's Department after she |
| 4 | drove into a fire hydrant and displayed objective signs of intoxication while speaking with the |
| 5 | investigating officers. |
| 6 | SECOND CAUSE FOR DISCIPLINE |
| 7 | (Dangerous Use of Alcohol) |
| 8 | 11. Respondent is subject to discipline under section 2761, subdivision (a), in conjunction |
| 9 | with section 2762, subdivision (b), in that Respondent used alcohol in a manner that was |
| 10 | dangerous to herself and others. Complainant refers to and incorporates all the allegations |
| 11 | contained in paragraph 10, as though set forth fully. |
| 12 | THIRD CAUSE FOR DISCIPLINE |
| 13 | (Alcohol-Related Conviction) |
| 14 | 12. Respondent is subject to discipline under section 2761, subdivision (a), in conjunction |
| 15 | with section 2762, subdivision (c), as a result of Respondent's alcohol-related conviction. |
| 16 | Complainant refers to and incorporates all the allegations contained in paragraph 10, as though se |
| 17 | forth fully. |
| 18 | <u>PRAYER</u> |
| 19 | WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, |
| 20 | and that following the hearing, the Board issue a decision: |
| 21 | 1. Revoking or suspending Registered Nurse License Number RN 389769, issued to |
| 22 | Respondent; |
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| 1 | 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and |
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| 2 | enforcement of this case, pursuant to section 125.3; and |
| . 3 | 3. Taking such other and further action as deemed necessary and proper. |
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| 6 | DATED 5/3/10 Julie L. Bailey |
| 7 | LOUISE R. BAILEY, M.ED., RN |
| 8 | Interim Executive Officer Board of Registered Nursing |
| 9 | Department of Consumer Affairs State of California |
| 10 | Complainant |
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